

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY and  
CHARLIE SAVAGE,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant.

**COMPLAINT**

Plaintiffs THE NEW YORK TIMES COMPANY and CHARLIE SAVAGE (collectively, “The Times”), by and through their undersigned attorneys, alleges as follows:

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), to obtain an order for the production of agency records from the United States Department of Justice in response to a request properly made by Plaintiffs.

**PARTIES**

2. Plaintiff The New York Times Company publishes *The New York Times* newspaper and www.nytimes.com. The Times is headquartered in this judicial district at 620 Eighth Avenue, New York, NY, 10018.

3. Plaintiff Charlie Savage is a reporter for *The New York Times* newspaper.

4. Defendant, the United States Department of Justice (“DOJ”), is an agency within the federal government that has possession and control of the records that Plaintiffs seek.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

6. Venue is premised on Plaintiff The New York Times Company's place of business and is proper in this district under 5 U.S.C. § 552(a)(4)(B).

7. FOIA requires that agencies make a determination as to FOIA requests within 20 business days. *See* 5 U.S.C. § 552(a)(6)(A)(i).

8. To meet this requirement, the agency must produce the requested records or notify the requester of the statutory basis for withholding them. *See id.*; *id.* § 552(a)(6)(C)(i).

9. Defendant has failed to meet the statutory deadlines set by FOIA. The Times is therefore deemed to have exhausted all administrative remedies. *Id.* § 552(a)(6)(C)(i).

### **FACTS**

10. Following the United States Supreme Court's January 17, 2025 decision in *TikTok Inc., et al. v. Garland*, 145 S. Ct. 57 (2025), the Protecting Americans from Foreign Adversary Controlled Applications Act ("PAFACA") was set to go into effect on January 19, 2025. This law banned social media application TikTok in the United States and, among other things, prohibited the distribution of TikTok by web hosting services and app stores unless the application's Chinese parent company, ByteDance, completed a qualified divestiture.

11. Apple and Google removed TikTok from their U.S. app stores on January 19, 2025 to comply with PAFACA.

12. On January 20, 2025, President Trump signed Executive Order 14166, titled "Application of Protecting Americans from Foreign Adversary Controlled Applications to TikTok" (the "Executive Order"), which directed the DOJ not to enforce PAFACA for 75 days.

The Executive Order specifically instructed DOJ not to take action or impose penalties against “any entity for noncompliance” with PAFACA. The Executive Order also directed the Attorney General “to issue a letter to each provider stating that there has been no violation of the statute and that there is no liability for any conduct that occurred during the above-specified period, as well as for any conduct from the effective date of [PAFACA] until the issuance of this Executive Order.”

13. Despite the Executive Order, Apple and Google did not immediately restore TikTok to their respective U.S. app stores. It was not until February 13, 2025 that Apple and Google made the social media application available on their U.S. platforms again.

14. It was widely reported that the companies restored TikTok only after separately receiving letters from U.S. Attorney General Pam Bondi assuring them that they would not be penalized or fined for carrying the social media platform on their app stores.

15. On March 20, 2025, The Times submitted a FOIA request (the “Request”) to DOJ seeking “the letters Attorney General Pam Bondi sent to Apple and Google on or about February 13, 2025, informing the companies that the Trump administration will not prosecute them for supporting TikTok.” The Request was assigned the tracking number FOIA-2025-03427.

16. As of the date of this filing, The Times has not received a determination from DOJ as to its Request, nor has The Times received any other communication from DOJ regarding the requested records.

**CAUSE OF ACTION (5 U.S.C. § 552)**

17. Plaintiffs repeat, reallege, and reincorporate the allegations in the foregoing paragraphs as though fully set forth herein.

18. Defendant is an agency subject to FOIA and must therefore conduct an adequate search using reasonable efforts for responsive records; release any disclosable records in its possession at the time of the request; and provide a lawful reason for withholding any other materials as to which it is claiming an exemption.

19. Defendant has failed to meet FOIA's statutory deadline of 20 business days to make a determination on the Request. 5 U.S.C. § 552(a)(6)(A)(i).

20. Defendant is permitted to withhold documents or parts of documents only if one of FOIA's enumerated exemptions apply.

21. No exemptions permit the withholding of the documents sought by the Request.

22. Accordingly, Plaintiffs are entitled to an order compelling Defendant to produce records responsive to the Request.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Declare that the documents sought by the Request, as described in the foregoing paragraphs, are public under 5 U.S.C. § 552 and must be disclosed;

2. Order Defendant to undertake an adequate search for the requested records and to provide those records to Plaintiffs within 20 business days of the Court's order;

3. Award Plaintiffs the costs of this proceeding, including reasonable attorneys' fees, as expressly permitted by FOIA, 5 U.S.C. § 552(a)(4)(E)(i); and

4. Grant Plaintiffs such other relief as this Court deems just and proper.

Dated: New York, New York  
May 19, 2025

/s/ David E. McCraw  
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